

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judge:

Paul S. Ryerson
Presiding Officer

In the Matter of

ENERGY NUCLEAR OPERATIONS, INC.,
ENERGY NUCLEAR PALISADES, LLC,
HOLTEC INTERNATIONAL, and HOLTEC
DECOMMISSIONING INTERNATIONAL,
LLC

(Palisades Nuclear Plant and Big Rock Point
Site)

Docket Nos. 50-255-LT-2
50-155-LT-2
72-007-LT
72-043-LT-2

ASLBP No. 22-974-01-LT-BD01

August 31, 2022

ORDER

(Protocols Governing Mandatory Disclosures)

For good cause shown, this Board grants the parties' Joint Motion Regarding Mandatory Disclosures.¹ Consistent with the Joint Motion, the parties and the NRC Staff shall adhere to the following disclosure protocols:

1. NRC Staff will identify or produce all documents required by 10 CFR §§ 2.336(b)(1)-(2), 2.1303, and 2.1316 that are relevant, including all such documents available via the NRC's website or ADAMS. The Parties shall not otherwise be required to identify or produce docketed correspondence or other documents available via the NRC's website or ADAMS.

2. The Parties will produce a log of public documents deemed relevant and within their possession, custody and control, identifying where they can be obtained (other than

¹ See Joint Motion Regarding Mandatory Disclosures and Proposed Protective Order (Aug. 26, 2022).

documents available via the NRC's website or ADAMS).

3. The Parties are not required to identify or produce drafts of documents (including markups of and comments on such drafts).

4. The Parties are not required to identify or produce emails.

5. The Parties are not required to identify or produce privileged documents (e.g., attorney-client communications, attorney work product, deliberative process).

6. The Parties will produce proprietary and confidential documents, subject to the terms of the protective order entered by the Board.² While proprietary and confidential documents should be clearly labeled as such, the Parties need not produce a proprietary document log.

7. If an identical document (including identical marginalia, if any) is found in multiple locations or in multiple formats, the Parties are only required to identify or produce one instance of the document.

8. Information related to work activities at the Palisades facility may be produced in the form routinely reported and disseminated at the project management level in the ordinary course of business (e.g., a level 3 project schedule may be produced without also providing all detailed work breakdowns, work packages, etc. related to every activity reflected in the schedule; monthly reports may be produced without providing underlying invoices, purchase orders, payroll checks, etc. reflected or summarized in the report). A Party with reasonable need for any such underlying information may request the production of that information, and the Party from whom such underlying information is requested shall make a reasonable effort to produce the requested information in a timely fashion.

9. Following the initial disclosures on October 14, 2022, updates to the disclosures

² See Licensing Board Order (Protective Order Governing Disclosure of Proprietary Materials) (Aug. 31, 2022) (unpublished).

required by § 2.336(d) shall be due the first business day on or after the fifteenth (15th) day of each month, beginning November 15, 2022, and shall cover any new documents as of the first (1st) day of such month—until such time that the hearing record is closed.

10. The following general categories of documents do not need to be produced absent a specific discovery request (addressed below):

- a. press clippings;
- b. documents that contain only administrative information, such as notices of meetings or calls, records of time and expenses, billing statements, and similar documents;
- c. documents related to Palisades that predate Entergy's ownership of the facility (i.e., April 2007);
- d. transactional documents between Entergy and Holtec related to Holtec's acquisition of Palisades;
- e. documents related to the decommissioning of facilities other than Palisades (except information regarding other projects/plants used by the NRC to derive the minimum formula in 10 CFR § 50.75(c)); and
- f. documents related to claims against the U.S. Department of Energy for breach of its obligation to accept spent nuclear fuel from facilities other than Palisades.

If a Party reasonably believes that certain information in general categories (c) through (f) of this paragraph is necessary to develop relevant arguments in the present proceeding, such Party may request, with as much particularity as possible, production of such information by September 14, 2022, and the Party from whom such information is requested shall make a reasonable effort to produce the requested information (provided it is in its possession, custody or control, is not privileged, and is subject to disclosure under 10 CFR § 2.336(a)) in its initial

disclosures, due October 14, 2022. Production of any such information shall not constitute an admission that documents or related arguments are relevant to the issues admitted for hearing. To the extent a Party objects to a request as unreasonably broad and/or beyond the scope of issues admitted for hearing, the Parties will meet and confer in an attempt to resolve any disagreements prior to elevating to the Board. If a dispute is submitted to the Board, disclosure of disputed documents, to the extent required by the Board, shall be deferred until five (5) business days following the Board's order.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Paul S. Ryerson
PRESIDING OFFICER

Rockville, Maryland
August 31, 2022

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Entergy Nuclear Operations, Inc., Entergy)	Docket Nos. 50-255-LT-2
Nuclear Palisades, LLC, Holtec)	50-155-LT-2
International, and Holtec Decommissioning)	72-007-LT
International, LLC)	72-043-LT-2
(Palisades Nuclear Plant & Big Rock Point))	
)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Protocols Governing Mandatory Disclosures)** have been served upon the following persons by Electronic Information Exchange.

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Entergy Nuclear Operations, Inc, Holtec International (Palisades Nuclear Plant and Big Point Rock)

Docket No. 50-255-LT-2, 50-155-LT-2, 72-007-LT, 72-043-LT-2

ORDER (Protocols Governing Mandatory Disclosures)

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Dated at Rockville, Maryland
this 31st day of August 2022